

January 29, 2024

Our File No.: 193076

Via Email: exc@toronto.ca

City of Toronto Executive Committee
City Hall, West Tower, 2nd Floor
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Cathrine Regan, Committee Administrator

Dear Mayor Chow and Members of Council:

**Re: Item EX11.5 – IMIT Property Tax Incentive Program Applications
21 Don Roadway (the “Subject Property”) – Buildings 1A, 1B and 2A**

We are counsel to CF EHL (21 Don Roadway) Holdings Inc. (“**Cadillac Fairview**”), the registered owner of the Subject Property and the applicant for brownfield remediation tax assistance (“**BRTA**”) and development grants (“**DGs**”) under the Imagination, Manufacturing, Innovation and Technology (“**IMIT**”) program, pursuant to applications filed with the City of Toronto (the “**City**”) on August 11, 2020 (the “**IMIT Applications**”) pursuant to By-law 1324-2012 (the “**IMIT By-law**”).

Buildings 1A, 1B and 2A, which are the subject of the IMIT Applications, are three of the multi-tenanted office buildings Cadillac Fairview is proposing to develop on the Subject Property as part of a transformational multi-phase, mixed-use complete community within the 38-acre district known as East Harbour, located on the east side of Don Roadway, south of Eastern Avenue and north of Lake Shore Boulevard East. The overall master plan contemplates the introduction of approximately 10 million square feet of new commercial development and 50,000 new jobs, together with over 3 million square feet of much-needed residential development. The Subject Property was formerly operated as the Unilever Soap Factory and requires extensive environmental remediation before the new buildings can be constructed, as well as several new public streets and associated on-site and off-site municipal services and infrastructure to be delivered by Cadillac Fairview. The development also depends on the completion of a new multi-modal transit hub along the north edge of the Subject Property (adjacent to Buildings 1B and 2A).

We have reviewed the staff report dated January 15, 2024 recommending refusal of the IMIT Applications (the “**Staff Report**”) together with the final report prepared by Hemson dated February

1, 2023 following its third party review of the IMIT Applications (the “**Hemson Report**”). We note that the Hemson Report **supports approval** of the DGs and BRTA for Building 1B, while finding the applications for Buildings 1A and 2A to be premature due to anticipated development timing.

East Harbour is a poster child for the IMIT program. The proposed office buildings will assist in meeting the City’s employment targets while establishing a new cluster of economic activity on a large contaminated site east of the Downtown Core, adjacent to higher-order transit.

For the reasons set out herein, Cadillac Fairview respectfully requests that the Executive Committee (and ultimately City Council) follow the advice of its third party consultant Hemson and approve the IMIT Application for Building 1B and defer a decision on the IMIT Applications for Buildings 1A and 2A until a complete site plan application has been submitted for those buildings.

At a minimum, even if the City is not inclined to approve the DGs, it should still approve the BRTA component of the IMIT Applications (particularly for Building 1B) as the environmental remediation costs are enormous and without financial assistance in the form of the BRTA, there is a significant likelihood that none of the office buildings will proceed, in which case the City would not receive any incremental commercial tax revenue, new office space or jobs. However, if the BRTA is approved as requested, it is much more likely that the office buildings will be constructed in the near future (particularly 1B), in which case Cadillac Fairview would receive the benefit of two years of tax assistance (including the ability to seek matching education tax relief from the Province) while the City will receive the full municipal tax increment commencing in year three, together with all of the planning and economic benefits associated with the new office space.

There is precedent for the City approving the BRTA component of an application despite refusing the corresponding DG component, as this is precisely what occurred for the office development at 100 Queens Quay East pursuant to By-law 1160-2018.

Building 1B

The City is currently processing the second submission of a comprehensive site plan application for Building 1B, which is a proposed 44-storey, 1.3 million square foot office building in the northwesterly portion of the Subject Property, adjacent to the future transit hub. Contrary to pages 6-7 of the Staff Report, it is anticipated that the environmental remediation and site works for Building 1B can commence immediately following approval of the project’s site plan application.

Moreover, the Hemson report identifies a number of public benefits that will be provided in connection with Building 1B as well as several key IMIT By-law objectives that will be achieved (see pages 17-20). Hemson provides the following summary of its assessment and conclusions on pages 20 and 22:

Given evolving office-work patterns, current trends in vacancy rates, high construction costs, timing risks of transit infrastructure, and the untried market for office space in the East Harbour location, it is evident that the level of risk for the Building 1B project is greater than is typical for projects of this scale in Toronto. On the other hand, the project’s potential catalytic role in the establishment of an important new employment

cluster would be beneficial to the City. For these reasons, it is our opinion that the East Harbour Building 1B project satisfies the objectives and requirements of the IMIT program. While currently the project may not satisfy the IMIT grant's "But For" test, we are of the opinion that should the grant be provided, it will improve the development viability and advance the timing of when the project will proceed.

[...]

The conclusions of this report are guided by the detailed qualitative and quantitative analyses. The key conclusion is that **the East Harbour Building 1B warrants receiving a grant under the IMIT Program**. The provision of the grant will support the development of substantial new employment space in the growth sector of Toronto's economy by helping to reduce the financial risk, and particularly those risks associated with non-residential development in a post-pandemic market. The grant has the potential to help attract tenants in East Harbour, advance construction, and catalyze non-residential development in the area.

Cadillac Fairview generally agrees with these conclusions and reiterates the significant economic benefits and public amenities that the City will realize if the DGs and BRTA are approved for Building 1B. It is well-understood that the office market has become much more challenging (especially post-pandemic) than it was when the IMIT By-law was enacted, and without the requested financial assistance, the viability of new office buildings at East Harbour will be placed in serious doubt. On the other hand, if the IMIT Application for Building 1B is approved, construction will be more likely to commence in the near future and act as a catalyst for the delivery of the important non-residential components of this master-planned community.

Although both Hemson and Cadillac Fairview believe that the entire application should be approved for Building 1B, the worst possible outcome for both the public and private interest would be a complete refusal as recommended in the Staff Report. At a minimum, the City should approve the BRTA to at least mitigate the financial uncertainty of the required environmental remediation works.

Finally, without downplaying the importance of the City's "current and forecast fiscal pressures and priorities" (as noted on page 7 of the Staff Report), which we acknowledge to constitute a significant challenge for the City, we dispute any implicit or explicit suggestion that refusing the IMIT Applications will help to alleviate such fiscal pressures. This logic erroneously assumes that the proposed office buildings will proceed regardless of whether the DGs or BRTA are provided, and that is simply not a valid assumption. To the contrary, refusing the IMIT Applications is more likely to exacerbate the City's fiscal pressures as it will create unfavourable economic conditions which might result in less commercial development (or none at all) occurring at East Harbour, therefore leaving the City without any additional commercial tax revenue from the Subject Property.

In other words, the financial assistance sought by Cadillac Fairview is not being extracted from the existing City budget for which there are numerous competing priorities and demands; **rather the tax relief will only occur if Cadillac Fairview chooses to proceed with its office buildings and to**

create the increased tax revenue which will in turn fund not only its DGs/BRTA, but also other City budget items.

Buildings 1A and 2A

While Cadillac Fairview also believes that the IMIT Applications for Buildings 1A and 2A warrant approval, we acknowledge that the site plan application for Building 1A is dated, and that a site plan application for Building 2A has not yet been submitted; as a result, the anticipated construction timeline for these buildings remains uncertain at this time.

Accordingly, we respectfully request that the City defer making any decision on the IMIT Applications for each of these two buildings until Cadillac Fairview has filed a site plan application for the respective building(s), at which time the IMIT Applications can be properly assessed in light of the prevailing market conditions at that time.

Alternatively, if the City is determined to make a final decision now, we respectfully request that the City at least approve the BRTA component for Buildings 1A and 2A, as this will again advance the important municipal objective of supporting the remediation of contaminated sites for future employment uses, and allow Cadillac Fairview to pursue matching education tax assistance from the Province. Without the certainty of two years of tax relief, the financial viability of remediating and redeveloping these portions of the site remains in doubt.

Land Use Planning Considerations

While it is fair for the Staff Report to note that the MZO for East Harbour has “changed the planning context”, it does not follow that the introduction of residential uses through the MZO (in addition to the 10 million square feet of commercial space which was previously approved) has improved the economic viability of the commercial space (which Cadillac Fairview is not required to deliver and which will continue to be dictated by challenging market conditions).

However, it is clear that by approving the IMIT Applications, the City would significantly improve the economic conditions to enable the expedited delivery of this important commercial development in a post-pandemic market.

Summary

As noted above, Cadillac Fairview respectfully requests that its IMIT Applications be approved for Building 1B and deferred for Buildings 1A and 2A. In the alternative, although it would be less impactful than a full approval, the City should at least approve the BRTA for the Subject Property.

Thank you for considering these submissions and we look forward to a favourable decision.

Yours very truly,

GOODMANS LLP



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IDA/rr

cc: James Deitcher and Anthony Yu, Cadillac Fairview

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